IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 27493 of 2005(W)

AGAINST THE ORDER IN EP 660 2003 IN
OS.730/2002 of PRL.SUB COURT,THRISSUR

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PETITIONER:

SASIKUMAR, AGED 40,
S/O.THANKAM, PANIKKATHUVEETTIL,
VELAPPAY DESOM, AVANUR VILLAGE, THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

ANTONY, S/O.MALIAKKAL KAPPANI PAILOTH,
DONBOSCO, KURIACHSIRA, OLLUR, THRISSUR DISTRICT.

BY ADV. SRI.K.A.HASSAN
SMT.P.SHYNI
SRI.G.GOPALAKRISHNAN NAIR (EDAPPALLY)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 27493 of 2005

Dated this the 18th day of August, 2007

JUDGMENT

Heard Sri.G. Sreekumar, the learned counsel for the petitioner. Grievance of the petitioner, who is the judgment debtor in a proceeding for execution of a money decree charged on immovable property is that the court below directed payment of substantial portion of the decree debt(Rs.25,000/-) as a condition for an adjournment of the case which stood posted for settlement of sale proclamation. On 23.9.2005, this court, on considering the case for admission, became inclined to grant stay of sale, (if not already conducted) and of confirmation of sale, (if sale is already conducted) on condition that the petitioner shall pay an amount of Rs.20,000/- within ten days from that date.

2. The respondent has filed a counter affidavit,wherein it is stated that the petitioner has not complied with the condition imposed by this court i.e. Rs.25,000/- shall be paid within 10 days from 23.9.2005. It is pointed out therein that the petitioner paid only Rs.5,000/- that too only on 4.10.2005 which is after the stipulated

period of 10 days. I am of the view that this court will not be justified in invoking the discretionary jurisdiction in favour of a person who secures interim relief by suffering conditions and refuses to comply with the conditions. However, since the stay has been in force from 23.9.2005, I dispose of the writ petition issuing the following directions:

The order of stay presently in force will continue for a period of four more months from today. It is open to the petitioner to sort out the issues with the decree holder in the meanwhile. At any rate stay will not continue beyond four months from today.

PIUS C. KURIAKOSE,
JUDGE.

Dpk